4033

BILL NO. S-78-04-34

SPECIAL ORDINANCE NO. S-71-78

AN ORDINANCE approving an Agreement with Joseph Zurzolo, Developer, for construction of a sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement dated April 12, 1978, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Joseph Zurzolo, Developer, for:

Sanitary Sewer

"Beginning at an existing sanitary sewer manhole located 220 ± L.F. west of and 50 ± L.F. north of the centerline intersection of Clinton Street and Glenn Ave., thence northwesterly 400 ± L.F. terminating at a proposed manhole."

of which the developer shall pay the entire cost and expense of the construction of said sewer, all as more particularly set forth in said agreement which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilman

APPROVED AS TO FORM
AND LEGALITY,

CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee on City Utilities (~~and the City Plan Commission for recommendation~~) and Public Hearing to be held ~~after due legal notice~~, at the Council Chambers, City-County Building, ~~Fort Wayne~~, Indiana, on _____, the _____ day of _____, 19__, at _____ o'clock ____ M., E.S.T.

DATE: 4-25-78

Sheila M. Westerman
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Stier, and duly adopted, placed on its passage.

PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BURNS	X				
HINGA	X				
HUNTER				X	
MOSES	X				
NUCKOLS	X				
SCHMIDT, D.	X				
SCHMIDT, V.	X				
STIER	X				
TALARICO	X				

DATE: 5-8-78

Sheila M. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) No. S-71-78 on the 8th day of May, 19 78

ATTEST: (SEAL)

Sheila M. Westerman
CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 9th day of May, 19 78, at the hour of 11:30 o'clock A. M., E.S.T.

Sheila M. Westerman
CITY CLERK

Approved and signed by me this 11th day of May, 19 78 at the hour of 2:30 o'clock P. M., E.S.T.

Robert E. Armstrong
MAYOR

Bill No. S-78-04-34

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance approving an AGreement with Joseph Zurzolo, Developer, for construction of a sanitary sewer

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance do PASS.

PAUL M. BURNS - CHAIRMAN

JAMES S. STIER - VICE CHAIRMAN

VIVIAN G. SCHMIDT

WINFIELD C. MOSES, JR.

FREDRICK R. HUNTER

DATE 5-8-78

CONCURRED IN

CHARLES W. WESTERMAN, CITY CLERK

05-289-10
4/12/78

AGREEMENT

FOR

SEWER EXTENSION

THIS AGREEMENT made in triplicate this 12 day of April 1978, by and between JOSEPH ZURZOLO, a resident of Allen County and over the age of 21, hereinafter referred to as "DEVELOPER" and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "CITY", WITNESSETH:

WHEREAS, the Developer desires to construct a sanitary sewer described as follows:

> Beginning at an existing sanitary sewer manhole located 220 ± L.F. west of and 50 ± L.F. north of the centerline intersection of Clinton Street and Glenn Ave., thence northwesterly 400 ± L.F. terminating at a proposed manhole.

Said sewer consists of 400 ± L.F. of 8-inch clay pipe in accordance with plans, specifications, and profiles heretofore submitted to the City and now on file in the Office of the Chief Water Pollution Control Engineer of the City Utilities of the City, and known as ERNST COURT SANITARY SEWER EXTENSION, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the Developer has an interest, but also adjoining land areas.

WHEREAS, the entire cost of construction of said sewer is to be paid for by the Developer.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all

approved by the City, under private contract to be let within sixty (60) days after requisite City approval. All work and materials shall be subject to inspection by the City and the right of City to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said sewer shall become the property of City and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter by regularly established by City, and all further maintenance thereafter shall be borne by City.

2. COST OF CONSTRUCTION

The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including engineering and City inspection fees, and to hold the City harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER

Said sewer, when accepted by the CITY, will initially serve the following described real estate of the DEVELOPER:

> Part of Section 26, Township 31 North, Range 12 East, in Allen County, Indiana more particularly described as follows, to wit:
>
> Beginning at a point on the N. line of Lot #3, Eliza Hanna Subdivision, said point being situated 790 feet west of the west right-of-way line of U.S. Highway #27 & State Road #427: and the north east property corner of Zurzolo, thence continuing west along the said N. line of Lot #3 a distance of 78.65 feet; thence south 36 deg. 35' west a distance of 287.97 feet ± to a point on the south property line of Zurzolo; thence east along said property line a distance of 249.07 feet ± to the south-east property corner of Zurzolo; thence north 0 deg. 8' east a distance of 231.0 feet ± to the point of beginning, containing .87 acres ± of land.

As the Developer will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connections to City sewer

mains and treatment of sewage therefrom.

4. CHARGE AGAINST EXCESS AREA

Said sewer, however, also serves an additional or excess area as shown on the attached Exhibit "A". In the event any present or future owner of the real estate shall at any time within fifteen (15) years of the date of this agreement, desire to use said sewer or any extension thereof, whether by direct tap or through the extension or connection of lateral or local lines to service such land; CITY, through its duly constituted authorities, before permitting such use, shall require by contract or assessment, as may be appropriate, that such owner or owners of said excess area pay to the CITY, in addition to the cost of standard tap-in and inspection fees, the sum of $0.0244089 per sq. ft. for the area served by each such connection and use, which represents the pro rata share of the cost of the extension of the CITY sewer to said area. Any amount so collected by the CITY shall be paid by the CITY within sixty (60) days of the receipt thereof to the DEVELOPER.

5. BOND

This contract is subject to Developer furnishing a satisfactory Performance and Guaranty Bond for the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the CITY.

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only, and neither the parties hereto, their successors, or assigns or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. GOVERNING STATUTE

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (I.C. 19-2-7-16, I.C. 19-2-7-17, and I.C. 19-2-7-18), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

DEVELOPER

By: Joseph Zurzolo
Joseph Zurzolo

CITY OF FORT WAYNE, INDIANA

By: Robert E. Armstrong
Robert Armstrong, Mayor

BOARD OF PUBLIC WORKS

By: Henry P. Wehrenberg
Henry P. Wehrenberg, Chairman

By: Ethel H. LaMar
Ethel H. LaMar, Member

By: _____
Max F. Scott, Member

ATTEST:

Virginia Muller
Clerk

Approved as to form and legality:

Associate City Attorney

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Joseph Zurzolo, a resident of Allen County and over the age of 21, who acknowledged the execution of the foregoing agreement for sewer extension as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 16th day of MARCH, 1978.

Wendell J. [illegible]

Resident of Allen County

My Commission Expires:

August 19, 1981

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert Armstrong, Mayor; Henry P. Wehrenberg, Chairman of the Board of Public Works; Ethel H. LaMar and Max G. Scott, Members of the Board of Public Works, who acknowledged the execution of the foregoing agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this ____day of_____, 1978.

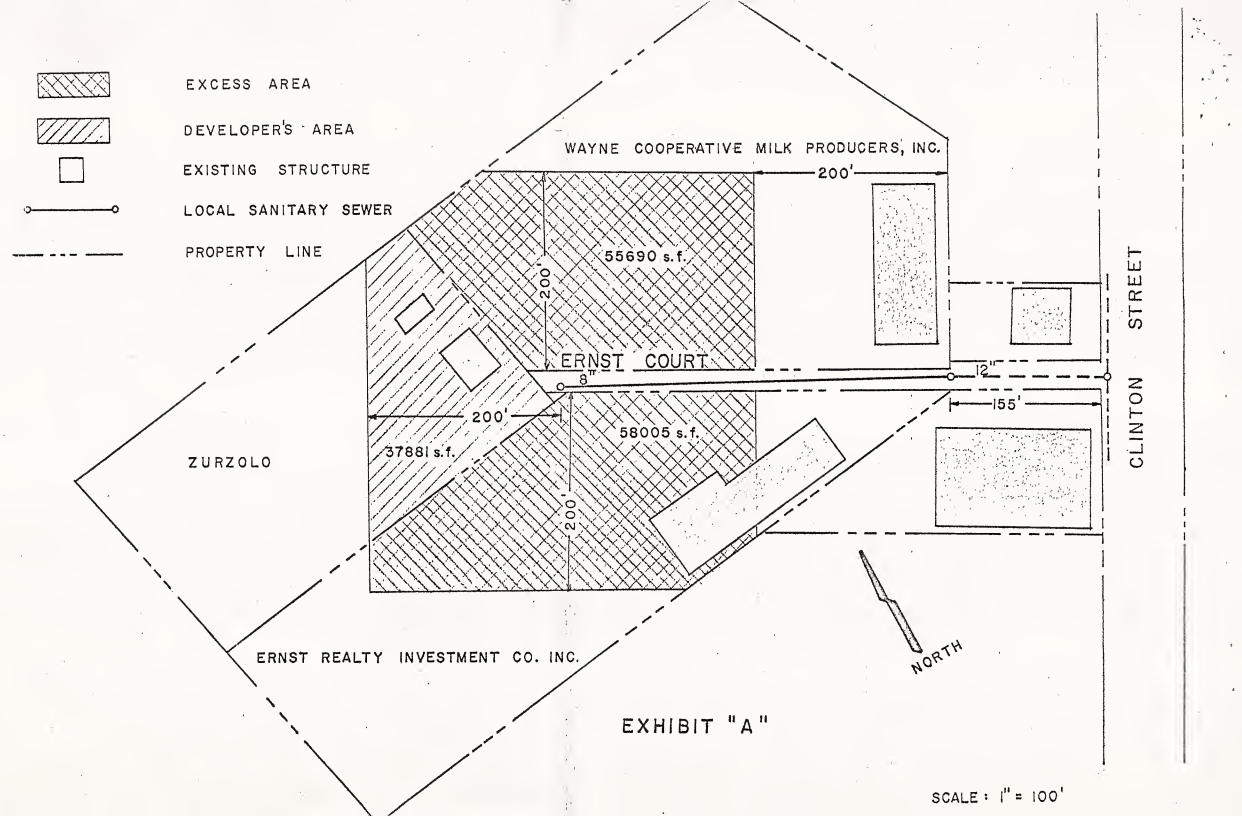
_____

My Commission Expires:

_____

Resident of _____

This instrument prepared by: Phil Boller, Chief Water Pollution Control, City of Fort Wayne, Allen County, Indiana.


EXCESS AREA
DEVELOPER'S AREA
EXISTING STRUCTURE
LOCAL SANITARY SEWER
PROPERTY LINE
WAYNE COOPERATIVE MILK PRODUCERS, INC.
200'
55690 s.f.
200'
ERNST COURT
8"
12"
200'
37881 s.f.
58005 s.f.
155'
ZURZOLO
200'
CLINTON STREET
ERNST REALTY INVESTMENT CO. INC.
NORTH
EXHIBIT "A"
SCALE : 1" = 100'

COMPUTATION OF ASSESSMENT

FOR LOCAL SANITARY SEWER

SHOWN IN EXHIBIT "A"

$$\frac{\text{TOTAL PROJECT COST}}{\text{TOTAL BENEFITED AREA}} = \text{ASSESSMENT PER SQUARE FOOT}$$

$$\frac{\$3,699.81}{151,576 \text{ sq. ft.}} = \$\ 0.0244089$$

PROPERTY OWNER BENIFITED	AREA IN SQ. FT.	ASSESSMENT PER SQ.FT.	LOCAL SEWER EXTENSION COST
Zurzolo, "Developer"	37,881	$0.0244089	$ 924.64
Wayne Cooperative, Inc.	55,690	$0.0244089	1,359.33
Ernst Realty, Inc.	58,005	$0.0244089	1,415.84
	151,576 sq.ft.		$3,699.81

4033

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT FOR SEWER EXTENSION FOR ERNST COURT

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS S-78-04-34.

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION FOR THE CONSTRUCTION OF A SANITARY SEWER FOR ERNST COURT. SAID SEWER TO BE CONSTRUCTED FROM CLINTON STREET AND GLENN AVENUE INTERSECTION, THENCE NORTHWEST 400± L.F.

AGREEMENT FOR SEWER EXTENSION ATTACHED

EFFECT OF PASSAGE CONSTRUCTION OF SANITARY SEWER EXTENSION TO ERNST COURT

EFFECT OF NON-PASSAGE INABILITY TO CONSTRUCT SANITARY SEWER EXTENSION TO ERNST COURT

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) DEVELOPER TO PAY ENTIRE COST & EXPENSE

ASSIGNED TO COMMITTEE

EP